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THE FRENCH COMMUNE AS A UNIT OF GOVERNMENT

Description

The commune, the basic unit of French local government, is described in this study, which traces its administrative structure under the Third Republic and under Vichy and discusses municipal functions in the communes with especial reference to Paris and Lyon.

23 August 1944

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Summary

1. The commune is the basic unit of French local government. Under the Third Republic all communes except Paris and Lyon had a substantially identical organization, the form of communal organization being determined by national law. This national law, passed in 1884, called for an elective, representative communal council which selected from its own membership both the mayor and the deputy-mayors of the commune.

2. The mayor of the commune was the agent of both the central government and the commune. He was the administrative and political head of the commune and was responsible for its police. Since the scope of the municipal police power was exceedingly broad, the mayor's police functions were most important. The mayor also saw to the execution within the commune of all national laws and regulations, and fulfilled a considerable number of other duties for the central government.

3. The communal council, which was usually composed of citizens of standing in the community, regulated by its ordinances the affairs of the commune. However, the central government, represented by the prefect of the department, retained powers of control and review, especially in financial matters. Ordinarily the prefect exercised these powers sparingly, as constant interference in communal affairs would have been politically inexpedient.

4. Foremost among the appointive officials was the secretary of the commune. The treasurer, the police commissioner,

and the chiefs of the various communal services also played a large role in the administration of the commune.

5. The scope of the activities of the communal government varied according to its population. Municipal public utilities were either directly or indirectly under the control of the communal government. All municipal functions other than those specifically permitted by law had to be justified as reasonable applications of the commune's police powers.

6. The Vichy regime has made many far-reaching changes in French local government. It has adjourned indefinitely all municipal elections and has greatly increased the powers of the central government over the commune. Mayors are now completely subordinate to the departmental prefects. Vichy also has dismissed a great number of local government officials, replacing them by persons loyal to the National Revolution. It is likely that the officials now holding important local government posts are favorably disposed to Vichy, but the latter regime has not been able to find enough personnel to extend its purge to the smaller communes and the less significant communal positions.

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THE FRENCH COMMUNE AS A UNIT OF GOVERNMENT

I. INTRODUCTION

The commune is the basic unit of French local government. It is more than a group of people within a particular area, or an administrative division. It is a community, a social organism, with a tradition born in the early history of France. A Frenchman feels little attachment to his department or his arrondissement. A Breton or a Gascon has some loyalty to his region, but most of his sentimental associations are connected with his commune.

The great majority of French communes are rural in character. Of the 38,000 communes, only about 400 had more than 10,000 inhabitants. Some 2,600 had between 2,000 and 10,000 inhabitants; 4,000 had a population between 1,000 and 2,000; 11,000 had between 500 and 1,000 inhabitants; and 20,000 communes had less than 500, including the 400 communes whose inhabitants numbered less than 50.

With the exception of Paris and Lyon, every commune in Republican France had substantially the same pattern of local government, whether it was a hamlet of less than fifty people or a metropolis of hundreds of thousands. Whereas in the United States there are different types of governmental organization for villages, towns, and cities, and a great variety of possible organizations within those three categories, in France there

was only one basic type of local government. A national law, passed in 1884, established a uniform structure for all communes. The two main exceptions, Paris and Lyon, differed so substantially from the other communes that they will be discussed in a separate section.

II. THE STRUCTURE OF COMMUNAL ADMINISTRATION DURING THE THIRD REPUBLIC

A. The Municipal Council (Conseil Municipal)

The commune was governed by a representative body, the municipal council (conseil municipal), which varied in size from ten to thirty-six members, depending on the participating population. Elections to the Council took place every six years. All adult males were entitled to vote. Elections usually were hotly contested, especially in the larger communes. To a large extent the electoral issues were based on local affairs and the personalities of the candidates, but an increasing tendency for national issues and national parties to determine the battle lines of local elections developed under the Third Republic. This resulted from the fact that incumbent and potential deputies and senators competed for the municipal councilorships, and the fact that the council itself participated indirectly in the election of senators by electing delegates to the senatorial electoral college. Although in principle the councilors were to receive no salary, in many communes the actual expenses connected with the position were

paid from public funds. Nevertheless, the position of municipal councilor was sought not for financial motives, but for its prestige. Cabinet members, members of parliament, and, in general, "solid citizens" competed for the post.

The municipal council was required to meet four times a year. Each session was limited to two weeks with the exception of the budget session, which could last as long as six weeks. The sessions were public, but in fact few people attended, and most of the council rooms were too small to accommodate a large audience. However, the minutes of every session and all other records were available to the public and the larger provincial newspapers carried accounts of the meetings.

Special sessions of the council were permitted, and councils of the larger cities met as often as once a month. The decisions of the council were taken by majority vote, the president having the deciding voice in the case of a tie. The mayoral office prepared the agenda. The council could form committees for the study of problems before it, but only in the larger cities did the council do so. Committees had no power of decision, being limited to the preparation of reports on which the council could base its discussion. The Law of 1884 stipulated that the municipal council was to regulate the affairs of the commune. The extensive jurisdiction of the council included the administration of communal properties

(leases, transfers, purchases, transactions, law-suits, and acceptance of donations), the execution of communal works, the construction and maintenance of communal buildings and roads, the creation of communal public utilities and services, and the administration of communal finances, including the budget.

On all the above matters the communal council could enact ordinances (déliberations). Besides passing ordinances, the council had other duties. It was legally required to give its advice (avis) on such matters as the administration of public welfare establishments. It had the right to offer recommendations (voeux) to higher authorities on matters of municipal interest. And it could make official protests (réclamations) against inequitable distribution of the tax burdens, though this was rarely done since such protests could have no effect.

B. The Mayor (Maire)

The executive agent of the communs, the mayor, was chosen by the municipal councilors from among their own number at the first session after their election. Usually the mayor was a man who had already served one or more terms as a municipal councilor. His term, like that of the council, was six years. The prestige of the office was considerable.

The mayor supervised the administration of the commune, presided at all meetings of the council, and represented the commune in all legal proceedings. With few exceptions he

appointed all the municipal employees, exercising this power in accordance with national civil service regulations.

The mayor had general charge of the financial affairs of the commune. It was his duty to see that the revenues of the commune were properly collected and conserved. He presented to the municipal council an annual report on the financial condition of the commune, showing its receipts, expenditures, and indebtedness, which had to agree with one prepared independently by the municipal treasurer. Debate on the mayor's report provided the council with an opportunity for general criticisms and suggestions. After the acceptance of the report, the mayor presented and defended before the council a proposed budget, prepared with the help of his staff, his deputies, and the heads of the various municipal services.

The mayor likewise exercised supervision over the management of all communal property, such as public buildings, land, and invested funds, although all matters of policy were determined by the council. The mayor selected the engineers, architects, and inspectors for municipal construction works and signed warrants for payments from the municipal treasury.

The mayor's general police power was broad and important. It included all measures necessary to ensure public order, safety, morals, and health. Except in a few metropolitan centers and certain frontier or coastal cities of military importance, local police administration was within the

jurisdiction of the mayor. He exercised this control under the supervision of the prefect, who in case of negligence by the mayor, could issue police orders on his own authority. The central government, moreover, retained certain appointive powers over the police. For example, the chief police officer (commissaire de police) an official required by national law in all communes of 5,000 inhabitants or over, was appointed by the Minister of the Interior, although in fact he regulated local traffic control, patrol duty, and sanitary ordinances under the supervision of the mayor. In general, the larger the commune the more the central government tended to determine the composition and standards of the police force.

To fulfill his many responsibilities, the mayor of a French commune had a broad ordinance-making authority, limited only by restrictions laid down by the municipal council or contained in national laws and decrees. This power of the mayor was especially significant because the policy of French legislative bodies, national and local, was to fix only the broad lines of a law, leaving the administrative details to the executive officials.

Although elected by the municipal councilors, the mayor was also an agent of the central government. As such, he was responsible not only for the publication and execution of national laws and regulations within the commune, but also for the execution of measures of public safety. In addition,

he had certain special functions assigned to him by national law, such as aiding in the work of recruiting, and supervising the local schools and prisons. In his performance of national functions the mayor was under the control, not of the municipal council, but of national authorities, especially the prefect.

C. The Deputy-Mayors (Adjoints)

Each mayor was assisted by one or more deputies, called adjoints, who were elected by the municipal council from its own members, the number depending on the population of the commune. There were no powers inherent in the position of deputy-mayor other than a priority in taking the place of the mayor if he were unavailable. The actual duties of the adjoints depended upon assignment by the mayor. In the larger cities they usually served as non-technical heads of municipal services.

D. Appointive Officials

The most important communal official after the mayor was the secretary (secrétaire) of the commune. In some respects he was more important than the mayor, for although administrations changed, the secretary customarily stayed on. He was a combination of chief clerk, adjutant, and executive officer. In the small communes the secretary was named by the mayor, subject to the prefect's approval.

Another important official was the municipal treasurer (receveur). The treasurer was appointed by the central government to insure his independence from local officials, whose

financial accounts might have to be checked against the treasurer's records. In the smaller communes the position of treasurer was combined, for purposes of economy, with that of the local tax collector (percepteur), a post required by national law. The treasurer was the custodian of the communal funds and the head of the commune's department of finance.

At the head of each public service in a large French city there was a chief of service (chef de service), the professional technical head of the service, of which the deputy mayor was usually the official supervisor.

It must be borne in mind that in practice the activities and officials of the commune were determined, regardless of the provisions of national law, by the size of the commune. In small communes with few or almost no public services, the secretary was often the only official.

Civil service protection of municipal employees in France was fairly effective. Appointment was by open competitive examination, and promotion, though slow, was determined mainly by merit. Disciplinary action, other than minor reprimands, could not be taken except after hearing by departmental disciplinary council. The position of the civil service employee in France carried a prestige higher than a comparable position in America, and observers considered that the professional quality of the French municipal service compared favorably with that of the better-governed American cities.

E. Control over the Commune

French respect for procedure according to law is very great. All legal limitations and controls on the powers of the commune sprang from the principle that the individual commune was not an independent entity responsible only to itself, but a unit of government important to all France, and therefore to be administered with a reasonable concern for the interests of the whole nation.

In the first place, the municipal council was forbidden to discuss national or departmental politics. (Even though a breach of this rule could become the basis for disciplinary action by the higher authorities, it was often violated.) In the second place, state enterprises were outside the jurisdiction of the commune. For example, the state had exclusive control over the method and contents of instruction in the public schools, the powers of the commune being limited to such matters as the maintenance of the school buildings. In the third place, all projects undertaken by the commune had to fall within the categories specifically stated in national legislation, or else had to be justifiable as proper applications of the police powers of the commune.

In addition, large powers of control existed in the hands of the central government, which usually acted through the prefect. The latter, who was appointed by the central government, was the representative of the national authority in each department. He had the right to suspend the deputy-mayors and municipal councilors, to suspend or cancel the orders

of the mayor, and to cancel or to refuse to approve certain resolutions.

If the mayor refused to perform an action mandatory by national law, the prefect could substitute himself for the mayor to carry out the action himself. The financial affairs of the commune fell under particularly extensive surveillance on the part of the higher authorities. Among the activities requiring the approval of higher authority were the budget of the commune; the purchase, selling,or leasing of municipal property; the appropriation of money; the granting of concessions; and the intervention of the commune in public utility enterprises either by direct operation or by subsidy to private concerns.

One authority has said that in the main the functions constituting the heart of municipal activity were not under the substantial control of the commune. Ordinarily the prefect exercised supervisory control for the central government, but the sub-prefect exercised comparable powers over the less important communes within his territorial area, the arrondissement. The commune had a theoretical financial freedom only in the disposition of the income it obtained from ordinary tax receipts. Before this money could be used, however, the obligatory appropriations required by national law had first to be deducted from it, and these usually absorbed by far the greater part of the receipts. If the municipal budget did not include the obligatory appropriations, the prefect inserted them in the budget himself.

It is not to be deduced from the legal powers of the prefect that he exercised in fact a constant, oppressive power over the commune. He did not ordinarily suspend or cancel orders of the mayor unless there were strong reasons for doing so. Although the prefect could substitute himself for the mayor, this procedure was hedged about with legal formalities and safeguards, so that it could be applied only if the mayor, after being warned of his deliquency, still refused to perform the act required by national law. The prefect, despite his formal powers, usually approved the municipal budget without change, reserving his intervention for occasions when the municipal council proposed financial measures which he considered notably objectionable. The tendency in French government was to restrict the interference of the prefect to matters in which the commune was in danger of committing an illegal act, and to discourage him from imposing his own views of the expediency of communal actions. There was, moreover, both political and legal recourse against excessive prefectoral activity. The prefect was suable in administrative law when he acted without legal right or abused his legal rights. Appeals could be taken to his political superior, the Minister of the Interior, usually through the national deputies and senators. Because of the existence of this political control, the authority of the prefect was exercised with less vigor over the large cities than over the small communes. The large cities had sufficient political power to make the Minister

of the Interior unwilling to offend them; their mayors were often deputies of considerable importance. Without the support of the Minister of the Interior the prefect did not dare to take a strong stand.

During the depression of the 1930's the communes fell even more under the control of the central government because their usually poor financial condition made it necessary for them to seek government help. For example, communes which wished to secure government funds for large-scale public works to reduce unemployment had to meet the requirements set by the national government. Such grants were not given unless the particular project met with government approval. The central government then reserved the right not only to inspect the actual operation and accounting system of the project but also to examine its financial condition.

III. MUNICIPAL FUNCTIONS

A. Municipal Activities in the Large Communes

The scope of municipal activities in France was extensive in the large cities, but was considerably limited in the communes of small population and little wealth. The administrative organization of Lille, an industrial city of about 200,000 inhabitants, is representative of the activities of the larger communes.

The core of the administrative organization was a central secretariat, headed by the municipal secretary, which handled such matters as the council agenda, litigation, personnel, the centralized purchase of supplies, and the supervision of police. The rest of the administration was divided among five services (directions):

First Service: General Administration

- 1st bureau: drafting of ordinances, preparation of the municipal bulletin, etc.
- 2nd bureau: official correspondence
- 3rd bureau: legal matters pertaining to property
- 4th bureau: military affairs
- 5th bureau: preparation of tax rolls, insurance of municipal property, registration of voters, and administration of elections
- 6th bureau: vital statistics

Second Service: Public Works

- 1st bureau: administrative and legal matters relative to contracts and utility concessions

2nd bureau: Verification of the accounts of contractors

3rd bureau: construction and maintenance of streets, bridges, etc.

4th bureau: construction, maintenance, and care of public buildings

5th bureau: architectural plans and designs

6th bureau: garbage disposal plant

7th bureau: municipal water works

8th bureau: city planning and zoning

Third Service: Finance and Control

1st bureau: preparation of the budget, accounting and audit of expenditures

2nd bureau: preparation of bills, collection of licenses and fees

3rd bureau: administration of municipal warehouses

Fourth Service: Education and the Arts

1st bureau: elementary and secondary schools; scholarships; libraries; archives; schools for the deaf, dumb, and blind; special educational facilities; museums.

2nd bureau: school canteens

Fifth Service: Health and Social Welfare

1st bureau: sanitary inspection, vaccination, control of epidemics, street cleaning.

2nd bureau: licensing of physicians and pharmacists; inspection of food and milk; venereal prophylaxis; morgue; medical inspections in schools; discharge of municipal insurance obligations

3rd bureau: assistance to aged and sick, large families, and to mothers at childbirth; unemployment relief; labor placement officers

Although the activities of French communes thus were similar to those of American municipalities, there existed at least one French communal function not common to United States local governments. This was the maintenance of individual files on the état civil (civil condition) of each inhabitant, in effect a rather complete biography giving the date and place of his birth, his parentage, education, tax payments, court sentences, and military service. The French commune also maintained rosters of certain kinds of property with a view to wartime mobilization and requisitioning, listing such items as motor cars, horses, and even carrier pigeons.

B. Municipal Public Utility Management

There were four separate types of municipal public utility organizations in France, varying in the degree and manner of control by the commune. The type of organization which a commune chose for a particular public utility was determined in part by the nature of the utility; some public services, for example, being more conveniently administered by the municipal government directly, while others could be more efficiently operated as concessions.

1. Direct Administration by the Municipality. Municipal services not self-supporting, such as parks, libraries, and baths as a rule were administered by government branches functioning directly under the authority of the mayor and the council.

2. Communal Public Institution (Etablissement Public Communal). This was a public institution with a considerable degree of independence in its fiscal and managerial arrangements, administering such agencies as hospitals, asylums, and many public charities. It had its own budget and a corporate personality, but was supervised by a commission chosen partly by the prefect and partly by the municipal council. It was self-supporting, either through its own receipts or public gifts.

3. Municipal Administration (Régie Municipale). The régie municipale was used mainly to provide such utilities as water, gas, and electricity. It did not have necessarily an independent corporate personality and was not removed from the general control of the municipal council, but it did enjoy a limited fiscal and administrative autonomy. The régie municipale had a permanent director, assisted by an administrative council chosen in part by the mayor and in part by the prefect. Utilities thus managed were to keep their budgets balanced, and the national Minister of Finance could intervene if they failed to do so.

4. Concession (Service Concédé). Municipalities could grant private companies the concessions for public utilities. Until 1929, for example, the Paris subways were a private concession. Concessions for bus service and electric power were not infrequent and many other public utilities were operated by private companies under concessions. The contract of concession fixed the terms, and contained the necessary safeguards for the protection of the public interest.

C. Inter-communal Enterprises

Frequently two or more communes joined in syndicates to maintain public utilities useful for all of them but beyond the economic strength of any single commune. Typical inter-communal projects were aqueducts, lighting systems, and public welfare institutions. Inter-communal syndicates were administered by a committee elected by the participating municipal councils.

IV. PARIS AND LYON

Two French cities, Paris and Lyon, differed so substantially from the other French communes in their form of government that they require separate consideration.

A. Paris

Before the outbreak of the World War II, the City of Paris proper had a population of approximately three million. The region of Greater Paris contained all or parts of three departments and had a population of six million. Paris was always too important and too critical a city to be allowed the degree of local freedom permitted to other French cities and therefore was never made subject to the Law of 1884 which regulated the organization of the other French communes.

Paris proper was divided into twenty sections (arrondissements) which were subdivided into quarters. The municipal council of Paris was composed of ninety members, each section selecting from four to seven members. The term

of office was six years. The Municipal Council had four ordinary sessions a year, but it was in extraordinary session the rest of the time. Its deliberations in practically all cases required the formal approbation of higher authority, usually the Prefect of the Department of the Seine.

In each arrondissement there was one mayor and from three to seven deputy-mayors (adjoints), appointed by the central government. The mayor administered no communal property, but was only an agent of the central power, placed under the authority of the Prefect of the Seine, to facilitate the execution of the laws.

Two prefects served Paris, the Prefect of Police and the Prefect of the Department of the Seine. The former was responsible for the police of the whole Paris area. The latter had under his direction over 51,000 functionaries and was as important as most cabinet ministers. Together with the Municipal Council he watched over the interests of Paris. The two prefects together fulfilled the duties that a mayor of Paris would have had under the regular form of communal organization, but without effective control by a municipal council.

B. Lyon

Lyon was divided into seven arrondissements. Its mayor was assisted by five deputy mayors, in addition to two special deputy-mayors in each of the city's seven arrondissements, making a total of nineteen. At the head of each arrondissement was an official called the "maire d'arrondissement" whose duties were

similar to those of the Paris "maire d'arrondissement." Unlike Paris, Lyon had a mayor for the whole city whose powers were like those of other French mayors, except that responsibility for the maintenance of public order in Lyon rested with the Prefect of the Rhône, and not with the mayor of the city. This was the prefect's only police power, the others remaining with the mayor. The Municipal Council of Lyon had fifty-seven members but had the same powers as the councils of other communes, except that it could not control the use of the credits which it voted to the Prefect of the Rhône for maintaining the security of Lyon.

V. THE COMMUNE AND THE VICHY REGIME

A. Direction of the Changes Made by Vichy

The Vichy regime has made several important changes in the administration of the commune as it existed under the Third Republic, all of which have been in the direction of eliminating the elective principle and of increasing the power of the central government. The uniformity of law with which all communes had been governed under the Third Republic has disappeared. One range of legal provisions now apply to communes having less than 2,000 inhabitants, and another to those having a larger population.

B. Vichy and Municipal Personnel

Soon after arriving in power, the Vichy regime adjourned all municipal elections indefinitely. The Vichy government dissolved many existing municipal councils and replaced them with special delegations (délégations spéciales) often drawn from the personnel of

the abolished council. By the end of 1943 over 2,300 councils had been replaced. Although the purpose of these replacements was in many cases to eliminate council personnel which was not sufficiently loyal to the Vichy's National Revolution, it is not safe to assume that all displaced personnel were disloyal. In some cases the reasons for dismissal had little to do with political convictions. It is equally unsafe to assume that the present personnel of municipal councils is necessarily loyal to the Pétain government. There is good reason to believe that for lack of competent replacements, the Vichy government has been forced to retain in office mayors and councils which it knows to be apathetic or even hostile to the Vichy regime.

A law of 16 November 1940 put an end to the powers of the mayors, deputy mayors, and municipal councils holding office in all communes with a population greater than 2,000. The Minister of the Interior was to appoint the mayor and deputy-mayors in communes exceeding 10,000 inhabitants, and the prefect to appoint them for communes having from 2,000 to 10,000 inhabitants. In communes having a population of from 2,000 to 50,000, the prefect was to appoint the municipal council from a list submitted by the mayor; in larger cities the Minister of the Interior was to make the appointment from names provided by the prefect after his consultation with the mayor. The Minister of the Interior has been empowered to declare unilaterally that

mayors or deputy-mayors have resigned from office. The prefect can do the same for the municipal councilors.

C. Present Relations of the Local Governments and Vichy

The Vichy regime has not been able to arrive at a satisfactory solution of its relations with the commune. On the contrary, it has succeeded in thoroughly unsettling these relations. The actual situation in France has created enough difficulties for the commune, but Vichy has increased the confusion by issuing floods of directives and orders, more or less contradictory. Local government in France today is entirely under the control of the central government, and the mayors have been reduced to the position of prefectoral subordinates.

NOTE

SOURCES OF INFORMATION ON COMMUNES

Dictionnaire des Communes (Berger-Levrault) Paris, 1939, lists all communes alphabetically, giving in each case the number of inhabitants, its location (by canton, arrondissement, and department), information as to telephone, telegraph, post office, and railroad stations. (Should any of these services not exist in the commune, the name of the nearest commune having such service is given.)

Didot-Bottin. Much more useful and much more available is the directory of Départements published annually by Didot-Bottin. A set of these directories is usually to be found in any French post office. The departments are listed alphabetically. The

communes are listed under their respective arrondissements in each department, but there is a convenient index. In addition the following information is given: location, altitude, utilities, transportation facilities, population, fair and market days, registry offices, banks, clubs, police and fire protection services, and electricity supply. The names of the public officials of the commune are given, as well as a list of its business establishments.